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UNITED STATES DISTRICT COURT

## WESTERN DISTRICT OF WASHINGTON AT SEATTLE

8 LLP MORTGAGE LIMITED, F/K/A LOAN  
9 PARTICIPANT PARTNERS, LIMITED, AS  
ASSIGNEE OF THE UNITED STATES  
SMALL BUSINESS ADMINISTRATION,

**Plaintiff,**

V.

JAMES L. GARDNER; KAY C. GARDNER;  
J. KEITH GARDNER, AND JILL A.  
GARDNER, A MARITAL COMMUNITY;  
OCCUPANTS OF THE PREMISES; and all  
persons or parties unknown claiming any right,  
title, estate, lien or interest in the real property  
described in the Complaint,

#### Defendants.

Case No. C04-00423-RSL

## DEFAULT JUDGMENT OF FORECLOSURE

19        This civil action is before the Court on plaintiff LPP Mortgage Ltd.'s Motion for Entry  
20 of a Default Judgment of Foreclosure against defendants J. Keith Gardner and Jill A. Gardner,  
21 individually and as a marital community, based upon the Court's having entered an Order of  
22 Default against those defendants on May 1, 2008. Based on the record in this action, and on  
23 the Declarations of William W. Scott and William L. Larkins, Jr. filed by plaintiff in support of  
24 plaintiff's motion,

1           IT IS ORDERED, ADJUDGED AND DECREED:

2           1.       That the Deed of Trust made, executed and delivered by J. Keith Gardner and  
3       Jill A. Gardner for the benefit of the Small Business Administration and dated April 19, 1996,  
4       which was recorded April 19, 1996 in the records of Cowlitz County, Washington as Auditor's  
5       File No. 960419005, the beneficial interest in which has been assigned to plaintiff ("the Loan  
6       Two Cowlitz Deed of Trust"), is hereby declared to be a valid first lien against the real property  
7       described in Exhibit "A" to this Judgment (hereinafter referred to as "the Cowlitz County  
8       Property"), and that plaintiff is permitted to exercise all rights and remedies provided by the  
9       Loan Two Cowlitz Deed of Trust and by law with respect to the Cowlitz County Property;

10           2.       That the Deed of Trust made, executed and delivered by J. Keith Gardner and  
11      Jill A. Gardner for the benefit of the Small Business Administration and dated April 19, 1996,  
12      which was recorded April 19, 1996 in the records of Cowlitz County, Washington as Auditor's  
13      File No. 960419006, the beneficial interest in which has been assigned to plaintiff ("the Loan  
14      One Cowlitz Deed of Trust"), is hereby declared to be a valid second lien against the Cowlitz  
15      County Property, and that plaintiff is permitted to exercise all rights and remedies provided by  
16      the Loan One Cowlitz Deed of Trust and by law with respect to that real property;

17           3.       That the liens of the Loan Two Cowlitz Deed of Trust and the Loan One  
18      Cowlitz Deed of Trust are prior and superior to any right, title, interest, lien or claim of J. Keith  
19      Gardner and Jill A. Gardner, and of any other party claiming an interest in the Cowlitz County  
20      Property which arose after April 19, 1996;

21           4.       That the Loan One Cowlitz Deed of Trust be foreclosed and that the Cowlitz  
22      County Property be sold in the manner prescribed by law to satisfy, but only partially, the  
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1 outstanding judgment in favor of plaintiff against defendants J. Keith Gardner and Jill Gardner  
2 rendered in an action in the United States District Court for the District of Oregon entitled *LPP*  
3 *Mortgage Limited v. J. Gardner and J. Gardner Co., et al.*, case no. CV-02-1331-AS (“the  
4 Oregon case”), up to but not exceeding the sums owing on the unsatisfied judgment in  
5 plaintiff’s favor; and that the proceeds derived from the sale of the Cowlitz County Property be  
6 applied first to the costs of sale, then to payment of the unsatisfied judgment amount owing to  
7 plaintiff and that the balance, if any, be paid to the clerk of this court and be distributed to such  
8 party or parties as may establish their rights thereto, and that the Loan Two Cowlitz Deed of  
9 Trust be foreclosed and the Cowlitz County Property be sold in the same manner and that the  
10 sales be conducted by the United States Marshal in the order requested by plaintiff to preserve  
11 its deficiency rights;

13           5. That the subordinate rights and interests of J. Keith Gardner and Jill A. Gardner,  
14 and of any other party claiming an interest in the Cowlitz County Property which arose after  
15 April 19, 1996, be barred and foreclosed, save only such right of redemption if any, as those  
16 parties may have in and to the Cowlitz County Property;

18           6. That the plaintiff, or any other party to this action, may become a purchaser of  
19 the Cowlitz County Property at sale; that plaintiff may credit bid on its unsatisfied judgment  
20 against J. Keith Gardner and Jill A. Gardner and other defendants in the Oregon case without  
21 advancing any cash; that upon such sale, the purchaser of the Cowlitz County Property shall be  
22 let into possession and that, if persons in possession shall refuse to surrender possession to the  
23 purchaser upon confirmation of such sale and demand of possession, such purchaser shall have  
24 the benefits of such remedies as the law may afford to secure such possession;

1           7.       That plaintiff have judgment against defendants J. Keith Gardner and Jill A.  
2 Gardner for plaintiff's reasonable costs, disbursements and attorney fees incurred in connection  
3 with this action, the foreclosure of the deeds of trust and the sale of the Cowlitz County  
4 Property, pursuant to Fed. R. Civ. P. 54 and CR 54(d).  
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7           DATED this 31st day of October, 2008.

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Robert S. Lasnik  
United States District Judge

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17       Presented by:  
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